

## **R E M A R K S**

The office action of November 23, 2005, has been reviewed and its contents carefully noted. Reconsideration of this case, as amended, is requested. Claims 1 through 18 remain in this case.

### **Preliminary Comment**

The numbered paragraphs below correspond to the numbered paragraphs in the Office Action.

### **Claim Objections**

2. Claims 6 and 14 were objected to because of the following informalities: grammatical error.

Claims 6 and 14 were objected to, the Examiner stating that "comprising the steps of:" should have been -- comprises the steps of:--. Both claims have been amended as suggested.

3. Claim 14 is further objected to because it is a substantial duplicate of claim 6. ... Examiner believes that Applicant's intent was for claim 14 to be dependent on claim 12...

The Examiner is correct. Claim 14 was intended to depend upon claim 12, and has been amended accordingly.

Reconsideration and withdrawal of the objections are respectfully requested.

### **Rejection(s) under 35 U.S.C. §112**

5. Claim 1 was rejected under section 112, on the grounds that in line 3, there is insufficient antecedent basis for the limitation "issuing an identification for the shipping platform".

The rejected part of Claim 1 has been amended to read,

- a) the coordinator issuing an identification for each of a plurality of types of shipping platforms;

This clarifies that the identification is issued not for an individual platform, but rather for each type of a plurality of types of platforms. Reconsideration and withdrawal of the rejection is respectfully requested.

6. Further, claim 1 was rejected for reciting "accepting a listing from an end recipient of shipping platforms for sale" in lines 6-7. The Examiner stated that "It is unclear from the claim language as whether the single shipping platform of line 3 is one of the shipping platforms of the listing of lines 6"

Claim 1 has been amended to read,

- c) the coordinator accepting a listing from an end recipient of at least one shipping platform of one of the types of shipping platforms identified in step (a) for sale at the computer site;

This clarifies that the notification is of a shipping platform of one of the types from step (a), as amended. Reconsideration and withdrawal of the rejection is respectfully requested.

7. Claim 2 was rejected for reciting the limitation "a symbol representing the method of this invention" in line 2 of the claim. The Examiner suggested --a symbol representing a coordinator-- instead.

The claim has been amended accordingly:

2. (currently amended) The method of claim 1, further comprising the step, after step (a), of marking the identification and a symbol representing a coordinator onto a plurality of the shipping platforms.

8. Claim 3 was rejected for lack of antecedent basis for "the step of marking". For examination purposes, Examiner construed claim 3 to be dependent on claim 2.

Examiner's construction was correct, and claim 3 has been amended to depend on claim 2. instead of claim 1 Reconsideration and withdrawal of the rejection is respectfully requested.

9. Claim 5 was rejected for lack of antecedent basis for the limitation "the coordinator" in line 2.

The term "the coordinator" has been added to each of the steps in claim 1, upon which claim 5 depends, providing the antecedent basis which was lacking. Reconsideration and withdrawal of the rejection is respectfully requested.

10. Claim 12 was rejected for lack of antecedent basis for "requesting a coordinator to issue an identification for the shipping platform" in lines 3-4.

The referenced section of claim 12 has been amended, consistent with claim 1, to read:

a) requesting the coordinator to issue an identification for each of a plurality of types of the shipper's shipping platforms and to create a remotely accessible file describing the plurality of shipping platforms and associating the type of platform with the shipper, on a computer site associated with the coordinator;

Applicant believes this supplies the necessary antecedent basis and clarifies the claim. Reconsideration and withdrawal of the rejection is respectfully requested.

11. Further, claim 12 was rejected for reciting "c) shipping products on the plurality of shipping platforms" and "d) accepting notification from the coordinator of, plurality shipping platforms which had been listed". The Examiner stated that "based on this and the antecedent basis problem of claim 12 addressed above, it is unclear in claim 12 as to the relationship of all the shipping platforms recited in the claim."

In addition to the amendment noted in response to paragraph 10, above, sections (c) and (d) of claim 12 have been amended as follows:

c) shipping products on at least some of the plurality of shipping platforms to at least one end recipient;

d) accepting notification from the coordinator of a listed quantity of shipping platforms of a type associated with the shipper in step (a), which had been listed by an end recipient at the computer site associated with the coordinator; and

Applicant believes that these amendments have fully addressed the Examiner's rejections, and the claims are now in condition for allowance. Reconsideration and withdrawal of the rejection are respectfully requested.

### **Rejection(s) under 35 U.S.C. §103**

12. Claims 1-4, 7-13, and 15-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tradeout.com in view of Canadian Pallet Council (CPC) ([www.cpcpallet.com](http://www.cpcpallet.com)).

Applicants respectfully disagree, and believe that the claims in the application, as amended, are patentable over the art cited.

Tradeout.com is an online auction site. A seller lists items for sale, and any buyer can log in and put in a bid on an item. It is true that shipping platforms are among the goods which may be sold on Tradeout, as on other auction or sale sites. Internet sites for selling platforms have been known, including one operated by Ongweoweh, the assignee of the present application, a description of which was listed by the Examiner.

The Canadian Pallet Council (CPC) maintains a pool of standardized pallets, owned by the members of the pool. Members of the pool add pallets to the pool, and remove them from the pool, and CPC's software tracks each member's balance (i.e., the inventory level of standardized pallets in the pool among the members of the pool).

If Tradeout.com were to be combined with CPC, the result would be an auction site where any member of the CPC pool could list pallets and any other member of the pool could bid on them.

Applicants' invention, in contrast, is a method *for shippers to retrieve their own shipping platforms* from a plurality of recipients *through the work of a coordinator* - the coordinator *assigns identifications to each platform type, associates the types with the shipper* in a remotely accessible file, *accepts listings from recipients of platforms of a listed type of platform*, and *notifies the specific shipper associated with that type of platform* that platforms of the type have been listed as available.

More specifically, what both Tradeout and CPC lack are:

- b) the coordinator creating a remotely accessible file describing each of the plurality of types of shipping platforms on a computer site, in which each type of shipping platform is associated with an original shipper; and ...
- d) the coordinator notifying the original shipper associated in step (b) with the type of shipping platform of the listing of the at least one shipping platform listed by the end recipient in step (c).  
*(language quoted from claim 1 - claim 12 contains similar language written from the point of view of the shipper)*

Tradeout's system lacks a coordinator of any sort - tradeout.com is just a forum for selling, among other things, shipping platforms. There is no file describing types of pallets associated with specific shippers - sellers might describe that they have a pallet on hand, but the listing is a simple listing of a particular pallet or pallets in a general category of merchandise, as in any auction system. The listing is available for anyone to view, or potential buyers can search by category or keywords, or buyers can receive notifications of "future sales" - but lacking the coordinator assigning identifications to platform types associated with specific shippers and maintaining the remotely accessible file with the associations, as required by the amended claims, this notification is, at most, as the Examiner characterized it - a notification that something in a general category is available (the reference just says "register now to ... receive future sale notifications). Any prospective buyer interested in goods in that category would receive the same notifications.

The Canadian Pallet Council defines one or more *standardized* pallet types, *which are associated with the CPC pool of pallets, not with any particular pool member*. In fact, that is the point of a pallet pool - that the pallets are standardized and interchangeable between members, so that any tracking system needs only to count inventory in/out levels among the members. To the extent that CPC might be characterized as a "coordinator", it is the pool of pallets which it coordinates among its members, not the retrieval of pallet types associated with a specific shipper.

Since both Tradeout and CPC lack the claimed feature, the combination of the two cannot make the invention (as defined in the amended claims 1 and 12) obvious. Claims 2-4 and 7-11, 13 and 15-18 being dependent upon claim 1 or 12, should be allowable for that reason, as well as for the additional restrictions which they add.

Reconsideration and withdrawal of the rejection is respectfully requested.

23. Claims 5-6 and 14 were rejected over Tradeout.com in view of Canadian Pallet Council (CPC) ([www.cpcpallet.com](http://www.cpcpallet.com)), as applied to claims 1, 4, and 12 above, and further in view of SJF Material Handling, Inc.

Claims 5-6 and 14, being dependent upon claims 1 and 12, as amended, should be allowable for the same reasons as set forth above for the independent claims, as well as for the additional elements they introduce.

SJF Material Handling is a vendor of, among other things, shipping platforms. They buy and sell such platforms as commodities. Whatever platforms they buy, they buy for their own account, and then they resell them to whoever wants to buy platforms. They are not a "coordinator", as the term is used in claims 1 and 12, as amended and discussed above - they do not supply identifications for platforms by a type, associate the type with shippers, maintain the file of types associated with specific shippers, accept listings of available platforms by type from recipients of goods, or notify shippers of the availability of their own types of platforms listed by recipients - and these elements, as discussed above, are also missing in Tradeout and CPC.

If Tradeout.com were to be combined with CPC and SJF, the result would be an auction site where any member of the CPC pool could list pallets and any other member of the pool could bid on them, and the combined site would also buy and sell pool platforms to CPC members.

SJF does not supply the elements missing from Tradeout and CPC, and the claims are thus allowable over the combination of references.

Reconsideration and withdrawal of the rejection is respectfully requested.

## **Conclusion**

Applicant believes the claims, as amended, are patentable over the prior art, and that this case is now in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicants' attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully Submitted:  
Benjamin Richards and Jason Brennan

By:           /Michael F. Brown/            
Michael F. Brown, Reg. No. 29,619  
Attorney for Applicant

BROWN & MICHAELS, P.C.  
400 M&T Bank Building - 118 N. Tioga St.  
Ithaca, NY 14850  
(607) 256-2000 • (607) 256-3628 (fax)  
e-mail: [docket@bpmlegal.com](mailto:docket@bpmlegal.com)  
Dated: April 20, 2006